

PARENTAL AUTHORITY OVER MINORS IN NEED OF INPATIENT TREATMENT

Legislative changes were made in 2004 in regard to parental authority over minors in need of substance abuse treatment. Additional changes were made in 2006 by 2005 Act 444. Under the revisions to § 51.13, Wisconsin Statutes, the following can now execute a **petition for admission for inpatient treatment**, depending on the type of treatment to be provided:

Admission for treatment of:	Minor's age	Authority needed from:
Substance abuse (AODA)	Under 18	Parent*/guardian only
MI / DD / AODA	Under 14	Parent/guardian only
Mental illness, developmental disability	14 or older	Parent/guardian and minor **

* Parent in this document means a parent with legal custody of the minor

** **If the minor refuses**, the parent/guardian can admit the minor anyway. However, the court must then hold a hearing to determine the appropriateness of the admission.

A minor **14 years or older** (or someone acting on the minor's behalf) can apply for voluntary admission for inpatient treatment where the parent or guardian cannot be found or is unreasonably withholding consent for the admission. The court must approve the admission if it finds that the admission is proper and the parent/guardian cannot be found or is unreasonably withholding consent. (§ 51.13(1)(c)1, Wisconsin Statutes.) If a minor **under 14** applies for inpatient treatment and the parent or guardian cannot be found or if there is no parent with legal custody, the court can approve the admission after holding a hearing on the matter. (See § 51.13(1)(c)2, Wis. Stats.)

DISCHARGE REQUESTS

Under revisions to Section 51.13(7)(b), Wisconsin Statutes, a **request for discharge** from admission must come from:

Discharge from treatment for:	Minor's age	Request needed from:
Substance abuse (AODA)	Under 18	Parent/guardian only
MI / DD	Under 14	Parent/guardian only
MI / DD	14 or older	Both minor and parent ***

*** If the minor requests discharge but the parent/guardian refuses it, the director can hold the minor by stating in writing that the minor is in need of services, the facility has appropriate treatment, and inpatient treatment is the least restrictive consistent with the minor's treatment needs.

If not discharged from treatment **within 48 hours** (not including weekends or holidays) after such a request, the minor (see above) can petition a court for discharge. (See § 51.13(7)(c), Wisconsin Statutes.)

CONSENT TO TREATMENT

Under revisions to § 51.61(6), Wisconsin Statutes, consents are required:

Consent for treatment of:	Minor's age	Consent needed from:
Substance abuse	14 or older	Parent/guardian only
MI / DD / AODA	Under 14	Parent/guardian only
Mental illness, developmental disability	14 or older	Parent/guardian <u>and</u> minor *

* Even though a parent/guardian can admit a minor age 14 and older to an inpatient treatment facility over the minor's refusal, the minor must still consent to treatment.

Note: Under Section 51.47, Wisconsin Statutes, **minors 12 or over** may receive limited treatment for **substance abuse** (assessment, counseling and detoxification for less than 72 hours) **without** the parent or guardian's consent. For **minors under 12**, they can receive those services without consent **ONLY** if the parent or guardian cannot be found. The parent/guardian must be notified of these services "as soon as practicable" (§ 51.47(3), Wis. Stats.)

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